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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/734,813	12/12/2003	Francis M. Claessens	46505/4	2792
1912	7590	03/23/2005	EXAMINER	
AMSTER, ROTHSTEIN & EBENSTEIN LLP 90 PARK AVENUE NEW YORK, NY 10016			ALEMU, EPHREM	
		ART UNIT		PAPER NUMBER
				2821

DATE MAILED: 03/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/734,813	CLAESSENS ET AL. <i>(initials)</i>	
	<b>Examiner</b>	<b>Art Unit</b>	
	Ephrem Alemu	2821	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 02 June 2004.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-4 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) 2-4 is/are allowed.  
 6) Claim(s) 1 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
     1. Certified copies of the priority documents have been received.  
     2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
     3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>6-02-04</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Halperin et al. (US 6,226,619 cited by applicant).

Re claim 1, Halperin discloses an apparatus for use in detecting the authenticity of a container sealed with a cap (i.e., seal) (Figs. 3, 4), comprising:

a radio frequency identification tag (32) comprising a substrate (32) and a radio frequency transceiver circuit (i.e., circuit chip 322 including antenna 323) adapted to transmit a signal upon receipt of a transmit command and mounted upon the substrate (Figs. 3, 4; Col. 4, lines 8-46; Col. 6, lines 13-38);

a cap (i.e., sealing cap 31B) for a container (i.e., bottle 1) having a closed end and an open end, the radio frequency identification tag (i.e., circuit chip 322 including antenna 323) mounted on an inner surface of the cap (Figs. 3, 4; Col. 6, lines 13-38); and

an engagement member (i.e., cork 31A) interconnecting the substrate and the container such that removing the cap from the container results in the fracture of the substrate thereby causing the radio frequency identification tag (i.e., circuit chip 322 including antenna 323) to become permanently disabled (Figs. 3, 4; Col. 4, lines 8-46; Col. 6, lines 13-38).

***Allowable Subject Matter***

3. Claims 2-4 are allowed.
4. The following is an examiner's statement of reasons for allowance: The prior art of record fail to teach or suggest, alone or in combination, the combination of the following limitations: "a cap for a container having a cylindrical portion, a closed end of the cylindrical portion and an open end of the cylindrical portion, the radio frequency identification tag mounted on an inner surface of the cylindrical portion of the cap adjacent to the closed end such that the first connection means faces centrally inward; and a second interconnection means (ratcheting means) connected to the container for engaging the first interconnection means (protrusion or slot)when the cap is installed on the container such that removing the cap from said container will exert force on the substrate resulting in the fracture of the substrate thereby causing the radio frequency identification tag to become permanently disabled" in a manner claimed in claims 2-4. It is for these reasons in combination with all other limitations in the independent claims 2-4, that claims 2, 3 and 4 are allowable over prior art of record.

***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. De La Huerga (US Pub. 2001/0017817); Robertz et al. (US 6,206,292); and Duan (US 6,147,606); also teach similar inventive subject matter.

***Correspondence***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ephrem Alemu whose telephone number is (571) 272-1818. The examiner can normally be reached on M-F Flex hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Don K Wong can be reached on (571) 272-1834. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

EA  
3-14-05



WILSON LEE  
PRIMARY EXAMINER